



KENTUCKY RETIREMENT SYSTEMS

William A. Thielen, Executive Director

Perimeter Park West • 1260 Louisville Road • Frankfort, Kentucky 40601
kyret.ky.gov • Phone: 502-696-8800 • Fax: 502-696-8822



TO: Members of the Board

FROM: William A. Thielen
Executive Director

DATE: October 23, 2015

SUBJECT: Voluntary Cessation of Participation by Employers
105 KAR 1:145

The 2015 General Assembly enacted HB 62, which created KRS 61.522 that provides for voluntary and involuntary¹ cessation of participation of certain employers in KERS and CERS. In addition to providing a general framework for withdrawal, KRS 61.522 requires KRS to promulgate administrative regulation to administer the statute.

A collaboration of KRS staff is developing a protocol for an eligible employer to voluntarily cease participation in KERS or CERS. In addition to internal staff, KRS has also been working with various stakeholders and outside consultants in developing these procedures and requirements.

The attached draft administrative regulation represents the most recent iteration of the withdrawal protocol; however, the regulation is not in final form. The final regulation has not been presented because certain aspects of the voluntary cessation process require additional development. Although the regulation is not finalized, practical consideration may compel KRS to promulgate those portions of the regulation that are complete to provide a framework for interested participants to begin the withdrawal process, which will take many months.

RECOMMENDATION: KRS Staff requests that the board authorize the following:

1. Completion of a draft administrative regulation.
2. Request that the Office of the Governor authorize the filing of an emergency regulation as well as an ordinary administrative regulation to establish the procedures and requirements for voluntary cessation as soon as practicable so that an eligible employer may file their application by December 31, 2015.
3. Authorize the Executive Director to sign the administrative regulation for filing with the Legislative Research Commission on behalf of the board.

¹ Involuntary cessation of participation will be regulated and administered through a different administrative regulation, which has not yet been drafted.

VOLUNTARY CESSATION OF PARTICIPATION BY EMPLOYERS
PROCESS OVERVIEW AND TIMELINE
DRAFT 105 KAR 1:145

- **APPLICATION FOR ESTIMATED COST-**
 - The draft administrative regulation provides a process for employers considering withdrawal to obtain a non-binding estimate of their actuarial liability due to KRS if the employer ceases participation in the systems.
 - This will equip employers with the necessary information to make an informed decision of the financial feasibility in pursuing the lengthy and expensive process of voluntarily cessation.

- **APPLICATION FOR CESSATION-**Employers seeking to voluntarily cease participation must:
 - File an application before December 31 of the year prior to their requested cessation date;
 - Application process requires the employer to provide accompanying documents such as a resolution seeking withdrawal; and
 - Application fee of \$10,000 to offset KRS administrative costs.
 - KRS Board of Trustee determination regarding whether to accept the application.

- **PROCESS FOLLOWING APPLICATION-** Once an application is properly filed at Kentucky Retirement Systems:
 - KRS shall immediately initiate an employee account audit, ensure that employer reporting errors are corrected, and prepare employer data to be utilized by the actuary to determine the employer's full actuarial cost of withdrawal.
 - KRS, with the assistance of the employer, shall provide education to the employees of the employer regarding the effect of withdrawal on their retirement accounts.
 - KRS shall provide notification to the employer's employees regarding their statutory right to request a refund of their accumulated account balance within sixty (60) days of the employer's cessation date. The cessation date is June 30, the end of KRS' plan year.
 - Employer shall establish a new retirement plan for its employees.

- **AFTER THE JUNE 30 CESSATION DATE-** Following the end of the plan year:
 - Employer shall continue to file monthly reports, remit employer contributions, as well as withhold and remit employee contributions until the decision regarding cessation of participation is final.
 - The employer contributions and employee contributions will be held by KRS in a separate account.
 - If cessation is successful, the employer contributions will be credited to the employer's full actuarial cost and the employee contributions will be refunded to the employer for appropriate distribution.

- If cessation is unsuccessful all remitted contributions will be credited as if the employer never applied for cessation.
 - A sixty (60) day refund application period begins on the day after the cessation date for employees who wish to withdraw their KRS account.
 - Following the close of the refund period and final reporting, KRS shall provide its actuary with the necessary data to determine the full actuarial cost contemporaneous with completion of the annual plan valuation
- **THE DECEMBER KRS BOARD OF TRUSTEES MEETING-**
 - Consideration and approval of the Actuarial Valuation for the previous fiscal year ending June 30.
 - Consideration and approval of the full actuarial cost of withdrawal for the employer.
 - Immediately following the approval of the full actuarial cost, KRS shall notify the employer of the cost.
- **CONSIDERATION OF ACTUARIAL COSTS AND PAYMENT PROPOSAL-**
 - The employer has sixty (60) days to notify KRS of its decision to continue or withdraw its application.
 - Simultaneously, the employer shall provide information regarding how it will pay for the full actuarial cost of withdrawal.
 - If by lump sum, provide evidence of liquid assets to cover the payment.
 - If by installment payments, provide information regarding adequate liquid assets to make the periodic payments and adequate security.
- **FEBRUARY, APRIL, OR SPECIAL KRS BOARD OF TRUSTEES MEETING-**
 - KRS Board will be presented materials to make a final decision regarding the employer's voluntary withdrawal application.
 - If approved, the employer shall pay by lump sum within thirty 30 days.
 - If by installment payments, the employer shall pay the installment for the current year within thirty 30 days, and prepay for each year thereafter on or before July 1.

DESCRIPTION OF 105 KAR 1:145
VOLUNTARY CESSATION OF PARTICIPATION BY EMPLOYERS
DRAFT ADMINISTRATIVE REGULATION BY SECTION

Section 1: Definitions

Plan year is defined as a fiscal year beginning July 1 and ending June 30. Cessation date is defined as June 30. Ceased employer is defined as an employer who has paid the full actuarial cost or is paying by installments.

Section 2: Estimate of actuarial cost of ceasing participation

Employer will file an application requesting a cost calculation. KRS will provide non-binding estimated cost based on the information currently in its database and projecting service and salary of all active employees to the next cessation date.

Section 3: Resolution of Employer

The governing body of the employer must pass a resolution to voluntarily cease participation that includes these provisions:

- (a) the employer has decided to voluntarily cease participation;
- (b) the employer acknowledges that it is subject to and bound by KRS 61.522 and this administrative regulation;
- (c) the employer acknowledges that it shall pay the full actuarial cost of withdrawal and all administrative costs;
- (d) the employer acknowledges that its employees will no longer earn service credit for employment with the employer after the employer's approved cessation date;
- (e) the employer agrees to cooperate with Kentucky Retirement Systems to educate its employees about the effect of the employer's cessation on their retirement accounts and their options regarding their retirement accounts; and
- (f) the employer shall not mandate, force, or require, its employees to take a refund of their accumulated account balance at Kentucky Retirement Systems or retaliate against its employees who do not chose to take refunds of their accumulated account balance.

Section 4: Application

The employer must file an application to cease participation by December 31 of the year prior to the cessation date the employer chooses.

KRS will not accept the application of an employer who:

- 1) has not paid or resolved its outstanding invoices;
- 2) has errors in reporting; or
- 3) is a party to a pending legal action in which KRS is an adverse party.

It is contemplated that the board will formally vote to accept or reject the application for processing (but this issue is under consideration).

The employer must attach the following documents to its application filed at Kentucky Retirement Systems:

- 1) The employer's resolution
- 2) A notarized copy of the official minutes of the meeting in which the Resolution was adopted;
- 3) The employer's Articles of Incorporation, if applicable;
- 4) The employer's current By-Laws, if applicable;
- 5) The employer's Certificate of Existence/Authorization from the Kentucky Secretary of State, if applicable;
- 6) Documentation of the alternative retirement program created by or being created by the employer for its employees, such as a written description of the alternative retirement program;
- 7) For each current and former full time employee, the employer will identify and provide:
 - i. Full names;
 - ii. Last known addresses;
 - iii. Dates of birth;
 - iv. Social security numbers or Kentucky Retirement Systems member ids;
 - v. Beginning dates of employment;
 - vi. Ending dates of employment, if applicable; and
 - vii. Sick leave balances.
- 8) The employer's most recent audited financial statement and independent auditor's report.
- 9) The employer's most recent five (5) Consolidated Annual Financial Reports;
- 10) Documentation of the employer's plan to pay the full actuarial cost including:
 - i. Funding source;
 - ii. List of real property owned by the employer, including deeds of conveyance, title, all liens or encumbrances on the real property and any current written contractual lease or rental agreement of the real property identified;
 - iii. List of liabilities of the employer; and
 - iv. Inventory of all other chattel and personal property owned by the employer or in which the employer has an interest that may be used as

- collateral by the employer, including a description of the property, the location, and estimated value;
- 11) Proposed Detailed Financing Statement, if the employer intends to pay in installments; and
 - 12) (This subsection of the administrative regulation is still under consideration). List of active lawsuits, legal actions, arbitrations, mediations and other litigation, except for cases in which the employer is seeking to collect a debt owed to it by one of its members, pending to which the employer is a party including:
 - i. Name of the case;
 - ii. Number of the case;
 - iii. The name and address of the Court, arbitrator, mediator, or administrative agency in which the case is pending; and
 - iv. A copy of the Complaint or a description of the allegations made in the Complaint as well as the type and amount of relief sought by the Plaintiff(s).

Section 5. Administrative Costs

The employer will pay \$10,000 at the time it files its application. KRS will keep an accounting of all internal administrative costs incurred, expenses, as well as outside consultant costs. KRS will invoice the employer for the remainder of the costs exceeding \$10,000. If the total cost is under \$10,000 KRS will apply the balance to the full actuarial cost or the monies due to KRS if the employer does not cease participation. The board will not make a final decision on the application until the administrative costs are paid in full.

Section 6. Notice to Employees regarding refunds.

KRS will send the notices to the employees of their right to request a refund at least ten (10) days before the 60-day refund period begins. Former employees that are currently employed by a different participating employer in CERS, KERS, or SPRS cannot take a refund. Current employees who are also employed by another participating employer in CERS, KERS, or SPRS cannot take a refund. The employer cannot mandate, force, or require its employees to take a refund or otherwise retaliate against those who do not take a refund. If an employee takes a refund during the 60-day refund period, that employee cannot purchase that service again. If the employee later becomes employed with a different participating employer, the employee will be in the benefit tier in effect as of the employee's new participation date. This is currently Tier III, the cash balance plan.

Section 7. Provisions regarding the period between the employer's cessation date and the final decision on the application.

The employer shall continue to file monthly reports, remit employer contributions, and withhold and remit employee contributions after the employer's cessation date until the board issues a final decision regarding cessation of participation. These contributions will be held by KRS in a separate account. If the employer does cease participation, the employer contributions

will be credited to the employer's full actuarial cost and the employee contributions will be refunded to the employer for appropriate distribution to the employee. If the employer fails to cease participation, the employer and employee contributions will be credited as they would have during the time period between employer's requested cessation date and the date the employer withdraws its application or the application is denied by the board. This is still under consideration, but KRS Staff believes this is necessary for many reasons, but most importantly to avoid a situation where the employer withdraws its application and the employer and employee contributions and reporting after the cessation date will have to be collected. If an employer withdraws its application, which is highly probable given the expense of ceasing participation, all reporting data and contributions are already at KRS. It protects KRS, the employees, and the employer. The employer contributions will be credited to the employers full actuarial cost and the employee contributions will be refunded to the employer who possibly could have those monies be attributed to the alternative retirement program.

If an employee of the employer files for disability retirement benefits then KRS will use the employer's cessation date as the last day of paid employment. If the employer fails to cease participation, KRS will make another determination of the employee's last day of paid employment.

The employer will continue to withhold and remit employees' payments toward an installment purchase of service. If the employer ceases participation, the employee shall have sixty (60) days after the final decision is made by the board to pay any outstanding balance. If the employer does not cease participation, the service purchase contract remains intact.

The employees in Tier III shall be vested in the 4% employer pay credit that has been accrued as of the cessation date.

Section 8. Employee sick leave.

Employees shall receive service credit for their sick leave balances as of the cessation date. The liability for the sick leave will be incorporated into the employer's full actuarial cost.

Section 9. Reserved for actuary and financing requirements

This section is incomplete. The only provision is that the board shall adopt actuarial assumptions to be used to calculate the full actuarial cost.

Section 10. Full actuarial cost.

The employer must pay or otherwise resolve all outstanding invoices and correct all the reporting from the time period it was still participating by August 31 after the cessation date. This is necessary to ensure that the information provided to the actuary is correct and that the employer has no outstanding liabilities to KRS. KRS will then provide the information to the actuary who will calculate the full actuarial cost after completion of the annual valuations. KRS anticipates being able to provide the employer with the full actuarial cost in late December or January after the cessation date. The employer then has sixty (60) days to give notice to KRS

whether or not it intends to withdraw. KRS anticipates that some employers may not be able to withdraw after receiving the cost. If the employer indicates that it intends to withdraw, it must pay all the outstanding administrative cost before the application will be considered by the board. The board will then make a final decision. KRS anticipates this decision will be made at the regularly scheduled February or April board meeting. The employer will then be a ceased employer.

Section 11. Paying the full actuarial cost.

If the ceased employer is paying by lump sum, it will have thirty (30) days to make the payment. If the ceased employer intends to pay in installments, the term length for payment is provided in the administrative regulation. Installment term length is determined based upon total amount owed. This provides an objective standard for the installment period, which by statute is capped to 20 years. The interest rate used for the installment agreement is the assumed rate of return.

Section 12. Purchase of omitted service.

This section provides that no one is permitted to purchase omitted service credit for time employed with a ceased employer. This is necessary because employer contributions are required to be made by the employer when a person purchases omitted service and the ceased employer cannot be charged any additional monies by the terms of the statute. Furthermore, information would be required from the ceased employer to verify omitted service and this is also impossible after the employer ceases participation. People will be able to purchase omitted service prior to the time the employer becomes a ceased employer.

Section 13. Pension spiking.

This section provides that if the ceased employer was the last participating employer, any additional actuarial costs due to increases in creditable compensation over 10% will not be invoiced to the ceased employer but will be included in the actuarially required contribution rate. This is necessary because KRS cannot charge ceased employers any additional monies after the employer successfully withdraws and pension spiking can only be identified at the time of the member's retirement.

Section 14. Legal action against KRS.

This section provides that an employer that files suit under KRS 61.522 and the administrative regulation will be liable for KRS' administrative costs and legal fees if the suit is unsuccessful or dismissed, except by agreement of the parties. It further provides that the employer's application will be voided if there is legal action, but does allow the employer to re-file upon conclusion of the litigation.

1 FINANCE AND ADMINISTRATION CABINET

2 Kentucky Retirement Systems

3 (New Administrative Regulation)

4 105 KAR 1:145 Voluntary Cessation of Participation by Employers.

5 RELATES TO: KRS 61.522, 61.546, 61.552, 61.598, 61.675, 78.616, 78.625,

6 105 KAR 1:140, 105 KAR 1:150

7 STATUTORY AUTHORITY: 61.522, 61.645(9)(g)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(g) authorizes
9 the Board of Trustees of Kentucky Retirement Systems to promulgate administrative
10 regulations necessary or proper in order to carry out the provisions of KRS 61.510 to
11 61.705, and 78.510 to 78.852. KRS 61.522 provides that certain participating
12 employers in the Kentucky Employees Retirement System and the County Employees
13 Retirement System may voluntarily cease participation if they pay the full actuarial cost.
14 This regulation establishes the procedures and requirements for voluntary cessation of
15 participation in the Kentucky Employees Retirement System and the County Employees
16 Retirement System by qualifying employers.

17 Section 1. Definitions.

18 (1) "Plan year" is defined as the period beginning July 1 and ending June 30.

19 (2) "Cessation date" is defined as the last day of the Kentucky Employees
20 Retirement Systems' or the County Employees Retirement Systems' plan year.

21 (3) "Ceased employer" is defined as an employer whose Form 7730,
22 Application for Voluntary Cessation from CERS or KERS, has been approved by the
23 systems and the employer has paid the full actuarial cost or is paying the full actuarial

1 cost by installments for a period of time determined by the board pursuant to KRS
2 61.552(3)(a).

3 Section 2. (1) An employer may request an estimate of the actuarial cost of
4 ceasing participation from Kentucky Employees Retirement System or County
5 Employees Retirement System by completing the Form 7725, Request for Estimated
6 Actuarial Cost of Voluntary Cessation.

7 (2) Kentucky Retirement Systems shall provide the estimate of the cost as of
8 the next available cessation date.

9 (3) Kentucky Retirement Systems shall provide the estimate of the cost based
10 on the information currently in its database and projecting the service and salary of all
11 active employees as if they remain employed and continue to earn the same creditable
12 compensation through the next available cessation date.

13 (4) The estimated actuarial cost of ceasing participation shall not be binding
14 on Kentucky Retirement Systems.

15 (5) The employer shall not rely on the estimated actuarial cost of ceasing
16 participation.

17 (6) The employer shall pay a \$5,000 deposit for the administrative cost of the
18 estimate at the time of its submission of its Form 7725, Request for Estimated Actuarial
19 Cost of Voluntary Cessation. Kentucky Retirement Systems shall administer the
20 deposit in the same manner described in Section 5 (3)-(5) of this administrative
21 regulation. The Kentucky Retirement Systems shall not release the estimate until all
22 administrative costs have been paid. The costs paid under this section shall not be
23 refunded.

1 Section 3. (1) The governing body of an employer seeking to cease
2 participation in Kentucky Employees Retirement System or County Employees
3 Retirement System shall pass a resolution to voluntarily cease participation in Kentucky
4 Employees Retirement System or County Employees Retirement System.

5 (2) The resolution shall contain the following statements:

6 (a) That the employer has decided to voluntarily cease participation in
7 Kentucky Employees Retirement System or County Employees Retirement System;

8 (b) That the employer acknowledges that it is subject to the requirements and
9 restrictions of KRS 61.522 and this administrative regulation.

10 (c) That the employer acknowledges that in order to voluntarily cease
11 participation in Kentucky Employees Retirement System or County Employees
12 Retirement System it shall pay the full actuarial cost of withdrawal and all administrative
13 costs;

14 (d) That the employer acknowledges that its employees will no longer earn
15 service credit in Kentucky Employees Retirement System or County Employees
16 Retirement System for employment with the employer after the employer's approved
17 cessation date from Kentucky Employees Retirement System or County Employees
18 Retirement System under KRS 61.522 and this administrative regulation;

19 (e) That the employer agrees to cooperate with Kentucky Retirement Systems
20 to educate its employees about the effect of the employer's cessation on their
21 retirement accounts and their options regarding their retirement accounts; and

22 (f) That the employer shall not mandate, force, or require its employees to
23 take a refund of their accumulated account balance as defined in KRS 61.510(41) or

1 78.510(38) or retaliate against its employees who do not chose to take refunds of their
2 accumulated account balance as defined in KRS 61.510(41) or 78.510(38).

3 Section 4. (1) An employer seeking to cease participation in Kentucky
4 Employees Retirement System or County Employees Retirement System shall file a
5 completed Form 7730, Application for Voluntary Cessation from CERS or KERS, with
6 the Executive Director of Kentucky Retirement Systems by December 31 during the
7 plan year containing the employer's selected cessation date.

8 (2) The employer shall submit the following documents with its Form 7730,
9 Application for Voluntary Cessation from CERS or KERS:

10 (a) The Resolution of the governing body of the employer resolving to
11 voluntarily cease its participation in Kentucky Employees Retirement System or County
12 Employees Retirement System;

13 (b) A notarized copy of the official minutes of the meeting in which the
14 Resolution was adopted, if applicable;

15 (c) The employer's Articles of Incorporation, if applicable;

16 (d) The employer's current By-Laws, if applicable;

17 (e) The employer's Certificate of Existence/Authorization from the Kentucky
18 Secretary of State, if applicable;

19 (f) Documentation of the alternative retirement program created by or being
20 created by the employer for its employees, such as a written description of the
21 alternative retirement program;

22 (g) For all current and former full time employees as defined by KRS
23 61.510(21) and 78.510(21) who were employed during the time period the employer

- 1 participated in Kentucky Employees Retirement System or County Employees
2 Retirement System, a list containing:
- 3 i. Full names;
 - 4 ii. Last known addresses;
 - 5 iii. Dates of birth;
 - 6 iv. Social security numbers or Kentucky Retirement Systems member ids;
 - 7 v. Beginning dates of employment;
 - 8 vi. Ending dates of employment, if applicable; and
 - 9 vii. Sick leave balances.
- 10 (h) The employer's most recent audited financial statement and independent
11 auditor's report
- 12 (i) The employer's most recent five (5) Consolidated Annual Financial
13 Reports.
- 14 (j) Documentation of the employer's plan to pay the full actuarial cost
15 including:
- 16 i. Funding source;
 - 17 ii. List of real property owned by the employer, including deeds of
18 conveyance, title, all liens or encumbrances on the real property and any current written
19 contractual lease or rental agreement of the real property identified;
 - 20 iii. List of liabilities of the employer;
 - 21 iv. Inventory of all other chattel and personal property owned by the employer
22 or in which the employer has an interest that may be used as collateral by the employer,

1 including a description of the property, the location of the property, and an estimated
2 value;

3 (k) Proposed Detailed Financing Statement, if the employer intends to pay in
4 installments; and

5 (l) List of active lawsuits, legal actions, arbitrations, mediations and other
6 litigation, except for cases in which the employer is seeking to collect a debt owed to it
7 by one of its members, pending to which the employer is a party including:

8 i. Name of the case;

9 ii. Number of the case;

10 iii. The name and address of the Court, arbitrator, mediator, or administrative
11 agency in which the case is pending; and

12 iv. A copy of the Complaint or a description of the allegations made in the
13 Complaint as well as the type and amount of relief sought by the Plaintiff(s).

14 (3) Kentucky Retirement Systems shall not accept the Form 7730, Application for
15 Voluntary Cessation from CERS or KERS, of an employer that as of the date of filing of
16 the Form 7730, Application for Voluntary Cessation from CERS or KERS:

17 (a) has not paid or otherwise resolved all its outstanding invoices with
18 Kentucky Retirement Systems;

19 (b) whose reporting is not correct in accordance with KRS 61.675, 78.625,
20 and 105 KAR 1:140; or

21 (c) is a party to pending legal action in which Kentucky Retirement Systems is
22 an adverse party.

1 (4) The Board of Trustees of Kentucky Retirement Systems shall accept or
2 reject the Form 7730, Application for Voluntary Cessation from CERS or KERS, for
3 processing.

4 Section 5. (1) The employer shall pay the administrative costs incurred by
5 Kentucky Retirement Systems for processing the employer's Form 7730, Application for
6 Voluntary Cessation from CERS or KERS.

7 (2) The employer shall pay \$10,000 as a deposit with its Form 7730,
8 Application for Voluntary Cessation from CERS or KERS,

9 (3) Kentucky Retirement Systems shall place the deposit in a designated
10 account and shall utilize the funds to pay the administrative costs of processing the
11 employer's Form 7730, Application for Voluntary Cessation from CERS or KERS.

12 (4) Kentucky Retirement Systems shall maintain records of all costs
13 associated with the processing of employer's Form 7730, Application for Voluntary
14 Cessation from CERS or KERS, including:

15 (a) the cost of compensation and benefits of Kentucky Retirement Systems'
16 employees computed on an hourly basis;

17 (b) fees incurred by Kentucky Retirement Systems for use of external
18 professional services; and

19 (c) the costs of postage, printing, and other expenses incurred by Kentucky
20 Retirement Systems.

21 (5) Kentucky Retirement Systems shall calculate its total administrative costs
22 and send an invoice to the employer either after the employer gives notice to Kentucky
23 Retirement Systems pursuant to Section 10 subsection (3) of this administrative

1 regulation or following withdrawal of the employer's Form 7730, Application for
2 Voluntary Cessation from CERS or KERS.

3 (a) Kentucky Retirement Systems shall apply the deposit received pursuant to
4 Section 5 subsection (2) of this administrative regulation to any administrative costs
5 incurred by Kentucky Retirement Systems as a result of the employer seeking to utilize
6 the provisions of KRS 61.522.

7 (b) Following the application of the deposit to the outstanding administrative
8 costs, Kentucky Retirement Systems shall submit an invoice to the employer for the
9 additional administrative costs and the employer shall pay the invoice for the remaining
10 administrative costs within thirty (30) days of the date of the invoice.

11 (6) If the amount of the administrative costs is less than the amount of the
12 deposit paid by the employer, Kentucky Retirement Systems shall:

13 (a) apply the remaining balance of the deposit to the full actuarial cost if the
14 employer gives notice of its intention to proceed with the voluntary withdrawal pursuant
15 to Section 10 subsection (3) of this administrative regulation; or

16 (b) apply the remaining balance of the deposit to the amount owed by the
17 employer to Kentucky Retirement Systems for continued participation if the employer
18 gives notice of its intention to not to proceed with the voluntary withdrawal pursuant to
19 Section 10 subsection (3) of this administrative regulation.

20 (7) The Board of Trustees of Kentucky Retirement Systems shall not consider
21 the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS,
22 until the employer has paid all the administrative costs incurred by Kentucky Retirement
23 Systems.

1 (8) The costs paid under this section shall not be refunded to the employer if
2 the employer withdraws its application.

3 Section 6. (1) Kentucky Retirement Systems shall take reasonable efforts to
4 notify each employee identified on the list provided by the employer that the employer
5 has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS, to
6 voluntarily cease participating in County Employees Retirement System or Kentucky
7 Employees Retirement System.

8 (2) Kentucky Retirement Systems shall provide a notice to each employee on
9 the list provided by the employer and in the databases of Kentucky Retirement Systems
10 informing the employee of the employee's right to request a refund of their accumulated
11 account balance as defined in KRS 61.510(41) or 78.510(38) within sixty (60) days of
12 the employer's cessation date. The notice shall be sent at least ten (10) days prior to
13 the employer's cessation date.

14 (3) The employer shall not mandate, force, or require, its employees to take a
15 refund of their accumulated account balance as defined in KRS 61.510(41) or
16 78.510(38) or retaliate against its employees who do not chose to take refund of their
17 accumulated account balance as defined in KRS 61.510(41) or 78.510(38).

18 (4) Former employees of the employer who are currently participating in the
19 State Police Retirement System, County Employees Retirement System, or Kentucky
20 Employees Retirement System due to employment with a participating agency shall not
21 be eligible to take a refund of their accumulated account balance.

22 (5) Current employees of the employer who are employed by another
23 employer participating in the State Police Retirement System, County Employees

1 Retirement System, or Kentucky Employees Retirement System shall not be eligible to
2 take a refund of their accumulated account balance.

3 (6) Kentucky Retirement Systems shall not refund the accumulated account
4 balance to any employee requesting a refund under this section until the employer is
5 determined to be a ceased employer.

6 Section 7. (1) The employer shall continue to file reports in accordance with
7 KRS 61.675, 78.625, and 105 KAR 1:140 after the employer's cessation date until the
8 Form 7730, Application for Voluntary Cessation from CERS or KERS, is approved by
9 the Board of Trustees of Kentucky Retirement Systems and the employer becomes a
10 ceased employer.

11 (2) The employer shall continue to remit employer and employee contributions in
12 accordance with KRS 61.675, 78.625, and 105 KAR 1:140 after the cessation date until
13 the Form 7730, Application for Voluntary Cessation from CERS or KERS, is finally
14 approved by the Board of Trustees of Kentucky Retirement Systems and the employer
15 becomes a ceased employer.

16 (a) Kentucky Retirement Systems shall hold the employer contributions until the
17 Form 7730, Application for Voluntary Cessation from CERS or KERS, is finally
18 approved by the Board of Trustees of Kentucky Retirement Systems and the employer
19 becomes a ceased employer. Kentucky Retirement Systems shall credit the entire sum
20 of the employer contributions remitted pursuant to subsection 2 of this Section to the
21 employer's full actuarial cost, if the employer is paying by lump sum as provided in
22 Section 11(1)(a) of this administrative regulation or to the employer's initial payment

1 under the installment payment plan established pursuant to Section 11(1)(b) of this
2 administrative regulation.

3 (b) If the employer does not become a ceased employer because it withdraws
4 its Form 7730, Application for Voluntary Cessation from CERS or KERS, or if its Form
5 7730, Application for Voluntary Cessation from CERS or KERS, is not finally approved
6 by the Board of Trustees of Kentucky Retirement Systems, the employer contributions
7 remitted pursuant to subsection 2 of this Section, shall be credited towards any
8 outstanding contributions owed for its continued participation in Kentucky Employees
9 Retirement System or County Employees Retirement System while the Form 7730,
10 Application for Voluntary Cessation from CERS or KERS, was pending.

11 (c) Kentucky Retirement Systems shall hold the employee contributions until
12 the Form 7730, Application for Voluntary Cessation from CERS or KERS, is finally
13 approved by the Board of Trustees of Kentucky Retirement Systems and the employer
14 becomes a ceased employer. Kentucky Retirement Systems shall return the employee
15 contributions to the ceased employer for distribution to the employee.

16 (d) If the employer withdraws its Form 7730, Application for Voluntary Cessation
17 from CERS or KERS, or if its Form 7730, Application for Voluntary Cessation from
18 CERS or KERS, is not finally approved by the Board of Trustees of Kentucky
19 Retirement Systems, the employee contributions remitted pursuant to subsection 2 of
20 this Section, shall be credited to the employee's account and the employee shall receive
21 service credit to which the employee would have been entitled had the employer been
22 participating during the time the Form 7730, Application for Voluntary Cessation from
23 CERS or KERS, was pending .

1 (3) (a) If a member who is an employee of the employer that has filed a Form
2 7730, Application for Voluntary Cessation from CERS or KERS, files for disability
3 retirement benefits while the employer's Form 7730, Application for Voluntary Cessation
4 from CERS or KERS, is pending Kentucky Retirement Systems shall use the
5 employer's cessation date as the member's last day of paid employment.

6 (b) If the employer's Form 7730, Application for Voluntary Cessation from CERS
7 or KERS, is withdrawn by the employer or is rejected by the Board of Trustees of
8 Kentucky Retirement Systems, Kentucky Retirement Systems shall determine the
9 member's last day of paid employment pursuant to KRS 61.510(32).

10 (4) The employer shall continue to pick-up payments for installment purchase
11 of service for its employees who are purchasing service pursuant to KRS 61.552(16)
12 and 105 KAR 1:150.

13 (a) The employee shall have sixty (60) days from the date the employer's
14 Form 7730, Application for Voluntary Cessation from CERS or KERS, is approved by
15 the Board of Trustees of Kentucky Retirement Systems and the employer becomes a
16 ceased employer to pay in full any outstanding balance remaining on the installment
17 purchase agreement pursuant to KRS 61.552(16) and 105 KAR 1:150.

18 (b) If the employer's Form 7730, Application for Voluntary Cessation from
19 CERS or KERS, is withdrawn by the employer or is not finally approved by the Board of
20 Trustees of Kentucky Retirement Systems, the employee's installment purchase of
21 service agreement shall remain in effect.

1 (5) Employees of the ceased employer who began participating on or after
2 January 1, 2014 shall be vested in the 4% employer pay credit that had been accrued
3 as of the ceased employer's cessation date.

4 Section 8. (1) The employee shall receive service credit for sick leave accrued
5 pursuant to KRS 61.546 or 78.616 as of the employer's cessation date.

6 (a) The employer shall report the number of hours of each employee's
7 accumulated sick leave as of the cessation date if the employer is under one of the sick
8 leave programs provided in KRS 61.546 or 78.616(1)-(4);

9 (b) The employer shall report the number of days of each employee's
10 accumulated sick leave as of the cessation date if the employer elected the sick leave
11 program provided in KRS 78.616(5);

12 (c) Kentucky Retirement Systems shall calculate the liability created by the
13 reported sick leave balances and incorporate that liability into the employer's full
14 actuarial cost.

15 Section 9. **SECTION RESERVED FOR ACTUARY AND FINANCING**
16 **REQUIREMENTS.**

17 (1) Kentucky Retirement Systems shall adopt actuarial assumptions to
18 calculate the full actuarial cost of withdrawal by an employer.

19 Section 10. (1) The employer shall pay or otherwise resolve all its invoices
20 and correct all reporting in accordance with KRS 61.675, 78.625, and 105 KAR 1:140 by
21 August 31 after the cessation date.

1 (2) Kentucky Retirement Systems shall provide the employer with the amount
2 of the full actuarial cost by sending a notice of actuarial cost and the report of the
3 actuary to the employer.

4 (3) The employer shall notify Kentucky Retirement Systems in writing of its
5 intention to cease participation or its withdrawal of its Form 7730, Application for
6 Voluntary Cessation from CERS or KERS, within sixty (60) days of the date of the
7 notice of actuarial cost. If the employer intends to cease participation, it shall also
8 provide notice of how it intends to pay the full actuarial cost.

9 (a) The employer shall submit the final plan documents for its alternative
10 retirement program with its notification if it intends to cease participation.

11 (4) The Board of Trustees of Kentucky Retirement Systems shall not consider
12 the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS,
13 until the employer has paid all the administrative costs incurred by Kentucky Retirement
14 Systems, pursuant to Section 5 of this administrative regulation

15 (5) After the employer has paid all the administrative costs, the Board of
16 Trustees of Kentucky Retirement Systems shall approve or reject the employer's Form
17 7730, Application for Voluntary Cessation from CERS or KERS.

18 Section 11. (1) The ceased employer shall pay the full actuarial cost by:

19 (a) lump sum payment paid within thirty (30) days of the date the Board of
20 Trustees of Kentucky Retirement Systems approves its application; or

21 (b) installment payment plan pursuant to KRS 61.522(3),

1 (2) Kentucky Retirement Systems shall use the assumed rate of return
2 adopted by the Board of Trustees of Kentucky Retirement Systems as of the employer's
3 cessation date as the interest rate for the ceased employer's installment payment plan.

4 (3) (a) A ceased employer whose full actuarial cost is between \$##### and
5 \$##### shall have up to five (5) years to pay the full actuarial cost plus interest at
6 the actuarially assumed rate of return by monthly installment payments.

7 (b) A ceased employer whose full actuarial cost is between \$##### and
8 \$##### shall have up to ten (10) years to pay the full actuarial cost plus interest
9 at the actuarially assumed rate of return by monthly installment payments.

10 (c) A ceased employer whose full actuarial cost is between \$##### and
11 \$##### shall have up to fifteen (15) years to pay the full actuarial cost plus
12 interest at the actuarially assumed rate of return by monthly installment payments.

13 (d) A ceased employer whose full actuarial cost is between \$##### and
14 \$##### shall have up to twenty (20) years to pay the full actuarial cost plus
15 interest at the actuarially assumed rate of return by monthly installment payments.

16 (4) The ceased employer shall pay the initial installment payment for the fiscal
17 year after the employer's cessation date within thirty (30) days of the final decision of
18 the Board of Trustees approving the ceased employer's application for voluntary
19 withdrawal.

20 (5) The ceased employer shall pay installment payments annually for the
21 ensuing fiscal year on July 1 of each year.

1 (6) If the ceased employer defaults on the installment payment plan
2 agreement, the employer shall be responsible for all administrative and legal fees
3 incurred by Kentucky Retirement Systems to enforce the agreement.

4 Section 12. (1) No person shall purchase service pursuant to KRS
5 61.552(23) if the service was with a ceased employer.

6 Section 13. (1) If the ceased employer was the last participating employer
7 for the employee prior to the employee's retirement, the additional actuarial costs
8 resulting from annual increases over ten percent (10%) as provided in KRS 61.598 shall
9 not be invoiced to the ceased employer, but shall be collected pursuant to KRS 61.565.

10 Section 14. (1) If an employer files legal action against Kentucky Retirement
11 Systems regarding the provisions of KRS 61.522 or this administrative regulation the
12 employer shall pay all administrative costs and legal fees incurred by Kentucky
13 Retirement Systems if the employer's legal action against Kentucky Retirement
14 Systems is unsuccessful or is dismissed for any reason other than by the agreement of
15 the parties.

16 (2) The employer's Form 7730, Application for Voluntary Cessation from
17 CERS or KERS, shall be void if there is legal action between Kentucky Retirement
18 Systems and the employer.

19 (3) The employer may file another Form 7730, Application for Voluntary
20 Cessation from CERS or KERS, for the next cessation date after the termination of the
21 legal action.

1 Section 15. If any due date or time period deadline provided in KRS 61.522 or
2 this administrative regulation falls on a Saturday, Sunday, or state holiday, the due date
3 or time period deadline shall extend to the close of business of the next business day.

KENTUCKY RETIREMENT SYSTEMS

TO: Members of the KRS Board of Trustees

FROM: William A. Thielen
Executive Director

DATE: October 23, 2015

SUBJECT: Establishing an Assumed Rate of Return to Calculate Withdrawing Agency Actuarial Cost Liability

As you are aware, the 2015 Kentucky General Assembly enacted House Bill 62 which established a process for agencies participating in KERS and CERS to withdraw from participation, if the agency meets certain conditions, including payment of the full actuarial cost of withdrawal.

Regarding calculation of the actuarial cost, KRS 61.522(3)(a)5 states in pertinent part: “The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid or the first installment payment is made.” This means that the risk of adverse experience in future years will lie with the employers that continue to participate in the KERS or CERS systems.

In order to mitigate this risk, our actuary, Cavanaugh Macdonald, has recommended that the calculation of a withdrawing employer’s actuarial cost should be done using an assumed Rate of Return (ROR) that is less than the assumed ROR that applies to the calculation of ongoing liability for employer contributions, i.e., currently 7.5%. In the letter which accompanies this memorandum, Cavanaugh Macdonald has recommended that the Board establish an assumed ROR for calculating a withdrawing employer’s actuarial cost liability of 2.0% less than the normal 7.5% ROR.

KRS 61.522(7) states in pertinent part: “. . . the full actuarial cost shall be determined by the Kentucky Retirement Systems’ consulting actuary separately for the pension fund and the insurance fund **using the assumptions established by the system as of the most recently completed actuarial valuation . . .**” [Emphasis added.]

Because of this language in KRS 61.522(7), it is necessary for the Board to establish the assumed ROR assumption that will apply to the calculation of a withdrawing employer’s actuarial cost liability, if it differs from the normal 7.5%

RECOMMENDATION: The Executive Director recommends that the KRS Board approve an assumed ROR for calculating a withdrawing employer’s actuarial cost liability at 2.0% below the current normal 7.5% ROR.



Cavanaugh Macdonald

CONSULTING, LLC

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October 15, 2015

Mr. William A. Thielen
Executive Director
Kentucky Retirement Systems
Perimeter Park West
1260 Louisville Road
Frankfort, KY 40601

Subject: Discount Rate for Terminating Units

Dear Bill:

The Kentucky Retirement System oversees the operation of three retirement systems. They are the Kentucky Employees' Retirement System (KERS), County Employees' Retirement System (CERS) and the State Police Retirement System (SPRS). Both KERS and CERS are cost-sharing multiple-employer plans. The participating employers of KERS and CERS pool their assets and their benefit obligations to provide defined benefit pensions. Since the assets are pooled, they are not allocated amongst individual employers, and may be used to pay the pensions of the retirees of any participating employer. In this type of arrangement all the participating employers are exposed to investment risk of the entire System. Employer contributions fluctuate over time in response to the investment performance of the total assets and actuarial experience of each System.

HB 62 allows certain participating employers of KERS and CERS to voluntarily cease participation in the System. HB 62 requires the participating employer who voluntarily wishes to no longer participate in KERS or CERS to pay the full actuarial cost for discontinuing participation. The full actuarial cost shall not include those employees who elect a refund of their member account balance within 60 days of a participating employer ceasing membership in CERS or KERS. Under this scenario, the employer will contribute either in a lump or in an installment program an amount equal to the full actuarial cost.

In order to eliminate the risk associated with withdrawing employers, annuities could be purchased for each affected member and beneficiary on the withdrawal date. This would guarantee the required payments without impacting the risk profile of the remaining employers of the System. Insured annuity pricing is based on the current interest environment. The table on the following page shows the current yield for various Barclays U.S. Corporate Bond and U.S. Treasuries bond indexes. These yield rates form the basis for the pricing of insured annuities. The lower the yield rates the higher the cost of purchasing guaranteed annuities.

3550 Busbee Pkwy, Suite 250, Kennesaw, GA 30144

Phone (678) 388-1700 • Fax (678) 388-1730

www.CavMacConsulting.com

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Bond Index (October 9, 2015)		
U.S. Corporate		
	Aggregate	3.40%
	Intermediate	2.76%
	Long	4.89%
Credit Quality		
	Aaa	2.81%
	Aa	2.50%
	A	2.97%
U.S. Treasuries		
	Aggregate	1.41%

Recognizing that the current interest rate environment is low compare to historical norms, and the remaining employers will absorb all the risk for providing retirement benefits to the members who were employed by the withdrawing agency who are vested and did not elect a refund of their member account, we recommend the assumed rate of return for determining the full actuarial cost be set to the assumed rate of return in the most recently performed actuarial valuation reduced by 2.00%. The current assumed rate of return is 7.50%, therefore the assumed rate of return for determining the withdrawal liability would be 5.50%. The 2.00% lower assumed rate of return should would allow the Retirement System to replicate an insured annuity within the existing asset pool at a less expensive rate than those prevailing in the current market place. We also recommend that this assumption be reviewed periodically as prevailing interest rates will fluctuate over time.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Todd B. Green" followed by a horizontal line.

Todd B. Green, ASA, FCA, MAAA
Principal and Consulting Actuary

KENTUCKY RETIREMENT SYSTEMS

TO: Members of the KRS Board of Trustees

FROM: William A. Thielen
Executive Director

DATE: October 23, 2015

SUBJECT: Public Participation at KRS Board of Trustee Meetings

The issue of allowing public participation (comment) at meetings of the KRS Board of Trustees has been raised by member groups and has been discussed among board members. In the event the board desires to allow public comment at its meetings, it will no doubt wish to have a policy in place that establishes some conditions on public participation.

Attached to this memorandum you will find for your consideration a draft policy regarding the issue of public participation at KRS Board meetings. This draft policy is based on policies that have been adopted by other public entity boards and is intended to present a starting point for discussion.

RECOMMENDATION: None

KENTUCKY RETIREMENT SYSTEMS

Board Meeting Public Participation Policy

The Kentucky Retirement Systems (KRS) Board of Trustees has adopted the following policies regarding public participation at meetings of the KRS Board:

1. Public comments may be allowed at meetings of the KRS Board of Trustees. Public comments will not be accepted at KRS Board committee meetings.
2. The Board shall only accept comments regarding items that are included on the meeting agenda.
3. Public comments will only be accepted during the portion of the meeting set aside for public comments. The portion of the meeting set aside for public comments, if any, will be noted on the agenda of each meeting.
4. The Board shall allot no more than thirty (30) minutes for public comments at any regular or special meeting. No individual presentation shall exceed three (3) minutes. The Board Chair shall have the authority to limit or extend the amount of time for public or individual comments set forth in this section, unless determined by a majority vote of the full Board. Statements shall be timed by the Board Chair or designee and time limits will be strictly enforced.
5. A person who desires to speak to the Board shall register at the Board meeting room on the day of the meeting. Registration sheets shall customarily be available at least thirty (30) minutes prior to the scheduled start of the Board meeting, and registration shall close five (5) minutes before the scheduled start of the meeting. Required registration information shall include the name and address of the person providing the comments, the name of the organization (if any) the person represents, the topic(s) to be discussed, and, if the person is a pension system member, the name of the pension system in which the person participates.
6. Public comments are subject to the following rules:
 - a. A person who has registered to speak shall, at the appropriate time, be acknowledged by the Board Chair. The person shall state his/her first and last name before speaking and state the topic to be addressed.
 - b. Written comments may be submitted to the Board Chair by a speaker and copies shall be distributed to the full Board following the meeting.
 - c. No person may speak more than once on the same topic.
 - d. Comments shall be directed to the Board, not to individual Board members. Questions to the Board or individual board members will not be entertained.

- e. Statements shall not be abusive or argumentative. No profane or vulgar language will be tolerated.
5. The Board chair shall enforce these rules and may, subject to appeal to the full Board, take actions necessary to maintain order at the Board meeting. Such actions may include, but are not limited to:
- a. interrupting a person making a statement, if the statement is too lengthy, unduly repetitive or otherwise violates these rules; and
 - b. limiting the total amount of time devoted to public statements based on the number of persons wishing to make statements and the length of the Board's agenda.

DRAFT

KENTUCKY RETIREMENT SYSTEMS

TO: Members of the KRS Board of Trustees

FROM: William A. Thielen
Executive Director

DATE: October 23, 2015

SUBJECT: Consideration of KRS Board Resolution 1-2015

Accompanying this memorandum you will find a draft resolution for consideration by the Board of Trustees. This resolution addresses the issue of whether a comprehensive performance audit on KRS should be conducted. As indicated in the resolution, several persons and entities have expressed that there is a need for such an audit.

Also attached for your information is a list of studies, audits, investigations and inquiries that have been conducted on KRS during the period 2008-2015.

RECOMMENDATION: None

**KENTUCKY RETIREMENT SYSTEMS
BOARD OF TRUSTEES**

Resolution No. 1-2015

**A RESOLUTION CONCERNING THE CONDUCT OF A COMPREHENSIVE
PERFORMANCE AUDIT AND BENCHMARKING STUDY OF KENTUCKY
RETIREMENT SYSTEMS**

WHEREAS, certain elected State officials, candidates for Governor, and others, including the Kentucky Chamber of Commerce, have called for a comprehensive performance audit of the Kentucky Retirement Systems (KRS); and

WHEREAS, notwithstanding the fact that numerous audits, investigations, inquiries and studies of KRS have been conducted in the past several years, none of which have disclosed any significant problems with the administration of KRS by the KRS Board of Trustees or the KRS staff; and

WHEREAS, the KRS Board of Trustees and staff desire to ensure that they are operating at the highest levels of efficiency, effectiveness and with the utmost integrity; and

WHEREAS, in the opinion of the KRS Board of Trustees, a comprehensive performance audit and peer benchmarking of all aspects of KRS' operations, including, but not limited to: plan funding; actuarial functions; administrative management; information security; information technology; financial management; investment performance and management; health insurance and pension benefits management; facilities management and communications management will certainly result in recommendations for operational improvements and should help ensure that KRS is administered in an efficient, effective and ethical manner; and

WHEREAS, in the opinion of the KRS Board of Trustees, any such comprehensive audit and benchmarking study should be independently initiated by the Kentucky Auditor of Public Accounts and other State officials and should be financed by the Kentucky General Assembly with funds that are entirely separate from funds appropriated to pay the full actuarially required employer contribution rate to the Kentucky Employees Retirement System and the State Police Retirement System.

NOW THEREFORE, The Board of Trustees of the Kentucky Retirement Systems, by a vote of its members taken in public session at a special meeting held on October 23, 2015 hereby resolves and encourages State officials to initiate a comprehensive performance audit and

benchmarking study of KRS and encourages the Kentucky General Assembly to appropriate up to \$1,000,000 in the next biennial budget to fund such a comprehensive audit and study. The KRS Board of Trustees further resolves that the Board and KRS staff will cooperate fully with such an audit and study and provide any and all information requested by persons or entities chosen to conduct the audit and study.

The Kentucky Retirement System Board of Trustees hereby directs staff to transmit a copy of this resolution to the Governor of Kentucky, members of the Kentucky General Assembly, and the Kentucky Auditor of Public Accounts.

Approved this 23rd day of October 2015

THE KENTUCKY RETIREMENT SYSTEMS BOARD OF TRUSTEES

By: 

Thomas K. Elliott, Chair